

REMARKS/ARGUMENTS

Claims 1, 4, 6-9, 12, 13, 17-20, 22-27, and 42-45 are now pending in the present application, for a total of 22 claims, 3 of which are independent. Please note that the original claim set as filed had a total of 27 claims (3 independent) and the excess claims were paid for at the time of filing, therefore no excess claims fees are due now.

Changes in response to the present Office Action are described in remarks hereinbelow.

Conference Report

A teleconference (via relay person) was conducted on 01/06/2009 between Examiner Wujciak and Applicant's Agent of Record Stauffer. Various proposed amendments to claim 1 were presented in an email message to Examiner, and were the subject of our conference. In an attempt to address Examiner's objections expressed in the 10/06/2008 Office Action, claim 1 was amended to clarify definitions of directional terms, and antecedency of "the shelf". Supporting arguments are reported in detail hereinbelow, but in summary the focus of discussion concerned the orientation of the "headrest post" for which the "end hook is configured for hooking on..." (language of the original claim). Since the original claim preamble also stated that the claimed "vehicle equipment rack" is for use "within a vehicle that has a first and a second headrest on one or more seats, each headrest having at least one headrest post", Applicant had assumed that a reader would understand that a headrest support post** on a vehicle seat is approximately vertical in orientation, as it is in every vehicle known to Applicant, and as it is illustrated in the drawings. The prior art being cited against the claim reads on horizontal "posts", not vertical, therefore Applicant has emphasized this distinction by positively citing said post as an "approximately vertical headrest post", the underlined text being inserted by the present amendment. Examiner agreed that the cited prior art does not read on this, and said he would review his search to confirm whether or not there is any more relevant prior art to be cited. Examiner further stated that an RCE would not be necessary to support this action.

***NOTE ADDED AFTER THE CONFERENCE: Said "post" is variously referred to in the application as a "headrest post", a "support post" and a "headrest support post" – for example "headrest support posts 324" and "headrest posts 324" in lines 27 and 29-30, respectively, on page 12 of the detailed description. Thus it should be clear to the reader that the*

"headrest post" cited in the claims is a post that supports a headrest above a seat.

Amendments in General

Since the presently rejected or objected-to claims all depend from independent claim 1, Applicant has made several amendments to it that are intended to clarify the meaning of terms, elements, and directions. All such clarifications are supported in obvious ways by the description and drawings of the specification, and do not add any new elements to the claims. Applicant believes that the clarifying amendments address Examiner's objections in a way that makes clear features and aspects of the invention that distinguish it as novel and non-obvious versus the prior art. For example, citing the verticality of the headrest post as discussed above shows that the claim scope is somewhat narrower than assumed by Examiner. The invention is thus limited to hooking on approximately vertical posts (bars, wires, rods, and the like) rather than posts, etc. that are horizontal enough to support a weight bearing down on the hook, as in Quesada and Richens. As stated in Applicant's description on page 12, line 30, the weight of the inventive rack (and equipment thereon) is supported not by the post but by the seat below the post: *"The rack 100 is thus removably held in position by the hook bar assembly 130 that is hooked on the inside headrest posts 324 and rests on top of the front seat(s) 310."*

It should also be noted that the language "characterized by" is carried over into the claims from the international PCT application wherein the language is preferred over "comprising" which doesn't translate very well. Nevertheless, the two terms should be understood to be equivalent, such that, for example, a "...rack characterized by a shelf, and a rod..." means the same thing as a "...rack comprising a shelf, and a rod...". In other words, the shelf and rod are being positively cited as elements of the claimed invention. If this might be considered confusing, Applicant suggests an examiner's amendment replacing "~~characterized by~~" with "comprising" in all occurrences in the claims.

Claim Rejections – 35 USC 112

Claims 19, 22, and 24 have been rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 19, 22, and 24; wherein "the shelf" requires an antecedent in claim 1,

"an ... shelf" is now cited in the second characterizing clause of claim 1, rather than in the preamble. This is proper in that the shelf is an element of the inventive vehicle equipment rack.

Claim Rejections - 35 USC 102

Claims 1, 18, 22, and 43-45 have been rejected under 35 USC 102(b) as being anticipated by USP 6327993 to Richens Jr.

Present amendments to claim 1 are believed to overcome these rejections, thereby making all its dependent claims allowable if claim 1 is allowed.

For example, the inventive rack is now limited to use in situations where it can be hooked on approximately vertical posts <that extend upward from a vehicle seat to a headrest (this bracketed limitation is implied but can be added to the claim if needed)>. Thus the weight of the equipment on the rack is supported by a shelf portion of the hook bar assembly which in turn transfers the weight to the seat below the headrest post. The longitudinal spring bias acts to continually force the two distal end hooks to stay tightly hooked on their respective headrest posts, thereby preventing lateral or longitudinal (i.e., approximately horizontal) movement of the rack and tipping of the equipment holding shelf (i.e., rotation about the longitudinal axis of the assembly). In contrast, prior art such as Richens Jr. and Quesada are designed to hook onto approximately horizontal posts which then bear the weight of any equipment that hangs on the hook bar. The longitudinal direction of their hook bars (when in use) is vertical for Quesada, and horizontal (like the invention) for Richens Jr. Quesada has no motivation for, and does not contemplate or teach toward applying a shelf or for changing the hook bar to make it work on vertical posts in a vehicle. Similarly, Richens Jr. has no motivation for, and does not contemplate or teach toward modifying his rack to support a rigid shelf on a substantially single hook bar that is removably hooked on vertical posts in a vehicle. Richens Jr. is not easily removable, having a locking mechanism (e.g., double eccentric lock) to make "the telescoping pole 16 length fixed" (col. 4, lines 15-20) rather than spring biased. Quesada has a spring biasing the end hooks with respect to each other, but the end hooks are not at distal ends of the assembly (an important safety aspect of the invention), and there is no motivation for Quesada to place the end hooks at distal ends. In fact, the Quesada approximation of a hook bar is really just a fancy version of a spring clip, and his rack would work almost as well without the spring biased lower end hook.

The adjective/adverb longitudinally is inserted into the first and last clauses of claim 1 to emphasize the direction of telescopic sliding, and the direction of spring bias (force). Furthermore, Applicant respectfully submits that Examiner has not constructed the claims according to common usage of the term "telescoping". For example, the American Heritage Dictionary defines "telescoping" as "To cause to slide inward or outward in overlapping sections, as the cylindrical sections of a small hand telescope do.")

Regarding claim 22, the claim 1 clarifications make it apparent that the Richens Jr shelf does not have a softened **rearward** edge, since in the invention's application the rearward edge is lateral to the hook bar. This is further emphasized by amendment to claim 22 inserting the modifier laterally before the term "rearward edge".

Claim Rejections - 35 USC 103

Dependent claims 4, 6, 24-27, and 42 have been rejected under 35 USC 103(a) as being unpatentable over Richens, Jr..

If claim 1 is allowed then the remaining claims, being dependent claims, would also be allowable as further limitations. Nevertheless, Applicant also provides the following response to Examiner's rejection of dependent claims. (Examiner is also referred to the comments in the previous amendment letter, which may take on new meaning in light of the present remarks, particularly regarding relative directions.)

Regarding claims 24-27, Richens, Jr. does **not** teach a rack "further **characterized by** an audio transmitter **attached to** the shelf", rather he teaches a multi-purpose **pocket** (12, 18) that can hold a variety of objects, potentially including a radio. Applicant is claiming additional elements that are integrated with the claimed apparatus. Whatever objects are put into Richens Jr.'s pockets are incidental to his invention, certainly not claimable as an element of his invention. Applicant's comments hereinabove regarding "characterized by" should help in understanding these differences. To further emphasize this, claims 24 and 25 are amended to delete unnecessary information so that the focus of the claim becomes the transmitter or the module elements that are being added to the list of elements comprising the claimed invention.

Regarding claim 23, it is clear from the text of claims 1 and 23 that the claimed compressible **sleeve is removably hooked on the same headrest post as the end hook**, and is furthermore next to (above) the end hook on the vertical post (this is known because a headrest

on a seat within a vehicle is above the seat and is supported by a relatively vertical headrest post). Quesada does not disclose or teach a compressible sleeve that removably hooks on the same post (rod, wire, whatever) as the end hook (e.g., 16 in Fig. 2) of the device, the sleeve being positioned next to the end hook on the post. Further clarification is amended into claim 23.

Allowable Subject Matter

Applicant appreciates the allowance of claims 7, 9, 12, and 13 and therefore has not amended them herein. Since 7 and 9 are now independent, but are positioned between claim 1 and other claims that depend therefrom, Applicant suggests an examiner's amendment to reposition claims 7, 9, 12, and 13 at the end of the claims as they are finally listed.

The Examiner has stated that claims 19-20 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As discussed hereinabove, the rejections of claims 19-20 under 35 USC 112 have been overcome. However, they are presently remaining as dependent claims.

Applicant would like to wait for Examiner's decision on the allowability of currently amended independent claim 1 before rewriting others of the remaining objected-to claims (8, 17, 19, and 20) to make them allowable. Claim 8, however, has been slightly amended to remove a limitation on the shape of the finger walls – said limitation not being considered functionally necessary to the cited embodiment of the invention.

Conclusion

The undersigned Agent of Record has made a sincere effort to amend the claims of this application in response to the present Office Action so that they define novel structure which is non-obvious. Favorable re-examination and consideration are respectfully requested. If there are still some issues to be resolved, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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